

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.9.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.938 of 2007

K.Krishnamoorthy .. Petitioner

Vs

1. The State of Tamil Nadu
rep. by its Secretary to Government
Prohibition and Excise Department
Fort St. George, Chennai-600 009.

2. The District Magistrate
and District Collector
Villupuram District
Villupuram.

.. Respondents

Petition filed under Article 226 of the Constitution of India for
issue of Writ of Habeas Corpus as stated therein.

For Petitioner :

Mr.S.Saravana Kumar

For Respondents :

Mr.P.Kumaresan

Addl. Public Prosecutor

O R D E R

(Made by P.D.DINAKARAN, J.)

The petitioner, who is the brother of detenu, Attukkannan alias Narayanan, who was incarcerated by order dated 29.1.2007 of the second respondent under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a Bootlegger, seeks to quash the order of detention made in Ref.No.C2/3494/2007, to set aside the same and to direct the respondents to produce the detenu, now confined at Central Prison, Cuddalore before this Court and set him at liberty.

2. On 4.1.2007, the Inspector of Police, incharge of Kallakurichi Prohibition Enforcement Wing, while conducting prohibition raid, found the detenu selling illicit arrack containing 3.18 mg% of atropine, as per the chemical analysis report. A case was registered in Crime No.11 of 2007 under Sections 4(1-A), 4(1)(aaa) and 4(1)(i) of the Tamil Nadu Prohibition Act.

3. The second respondent, taking note of this case as a ground case and finding that there are four adverse cases of alike nature and having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order and public health, ordered his detention dubbing him as a Bootlegger.

4. The learned counsel for the petitioner, inviting our attention to contradiction in the grounds of detention and the list of properties sent to the Magistrate, with respect to the date on which the properties were produced before the Magistrate, contends that the above contradiction vitiates the impugned order of detention.

5. We have perused the entire materials placed before us. In the grounds of detention, in paragraph 3, it has been stated that the detenu, along with the seized properties, was produced before the Judicial Magistrate II, Ulundurpet on 4.1.2007. But, in the list of properties sent to the Magistrate at page nos.74 and 76 of the booklet, it has been stated that the properties were received on 5.1.2007.

6. We are, therefore, satisfied that there is a glaring discrepancy as to the date on which the detenu was produced along with the seized properties, which clearly shows the non application of mind on the part of the detaining authority and also vitiates the impugned order of detention. Accordingly, the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/-

Asst. Registrar.

/true copy/

Sub Asst. Registrar.

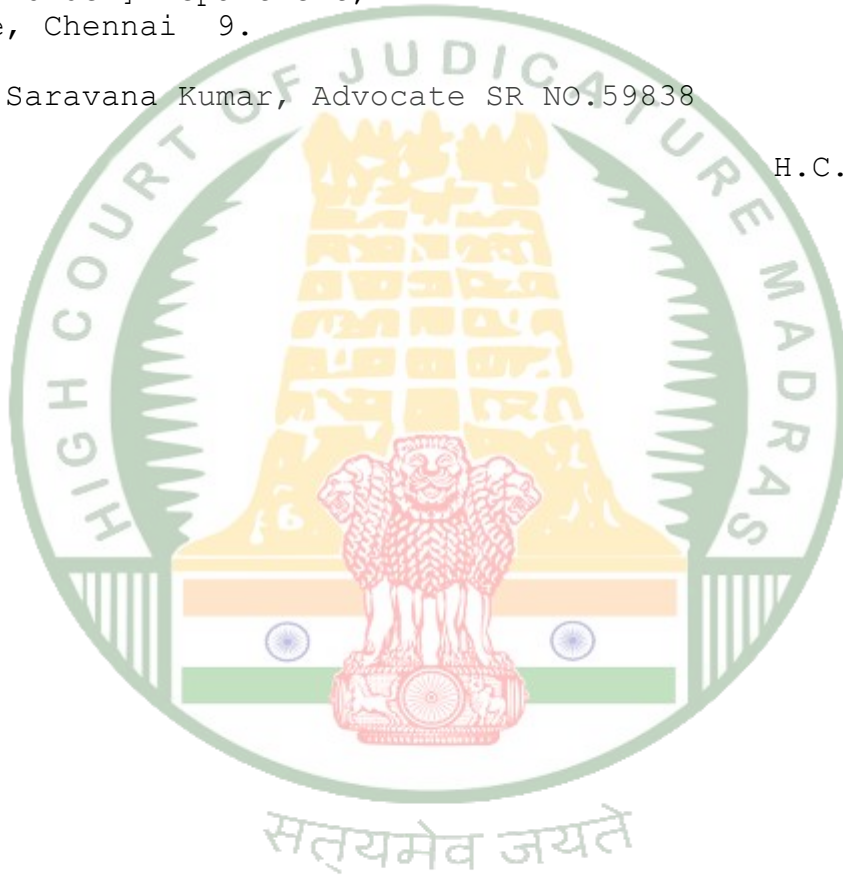
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To

1. The Secretary to Government
Prohibition and Excise Department
Fort St. George, Secretariat, Chennai-600 009.
 2. The District Magistrate and District Collector
Villupuram District, Villupuram.
 3. The Superintendent, Central Prison, Cuddalore.
 4. The Public Prosecutor, High Court, Madras.
 5. The Joint Secretary, Government of Tamil Nadu,
Public [Law and Order] Department,
Fort St. George, Chennai 9.
- + 1 CC To Mr.S.Saravana Kumar, Advocate SR NO.59838

mdr[co]
gp/5.10.

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